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10/530,013

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Frank Muller

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EXAMINER

ARK, DARREN W

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/530,013	Applicant(s) MULLER ET AL.	
	Examiner Darren W. Ark	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 5-11, 14, 15, 25-35, 39-41, 52, 53, 55 and 56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 12, 13, 16-24, 36-38, 42-51 and 54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/1/05, 6/24/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 5-11, 14, 15, 25-35, 39-41, 51, 52, 54, and 55 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Group and Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 01/16/2008.
2. Applicant's election with traverse of Group I, Species I in the reply filed on 01/16/2008 is acknowledged. The traversal is on the ground(s) that "...Applicant respectfully directs the Examiner's attention to...'...search and examination...can be made without serious burden...'...Examiner would not be unduly burdened if forced to examine Groups I, II, and III...Species I-XI are not mutually exclusive...". This is not found persuasive because each of the Groups is a separate and distinct invention since they each individually recite subject matter whose scope is not commensurate with the other Groups and thus their search is unique and would pose an undue burden on the Examiner. With respect to the Species Election requirement, if applicant is traversing on the ground that the inventions or species are not patentably distinct, applicant should submit such evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

The requirement is still deemed proper and is therefore made FINAL.

Specification

3. The disclosure is objected to because of the following informalities:

Page 6, line 30, “11” should be replaced with --12--.

Appropriate correction is required.

Claim Objections

4. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims the second occurrence of claim 43 to claim 55 have been renumbered 44-56.

5. Claims 44, 45, 47 are objected to because of the following informalities:

Claims 44 and 45 are claiming the same subject matter.

Claim 47, line 2, “send” should be changed to --sent--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 19, 20, 53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 19, the term “the surface of the electrodes” lacks positive antecedent basis.

In regard to claim 53, the phrase “computer processing means adapted in response to commands from computer” renders the claim vague and indefinite since it is unclear what computer the processing means responds to for processing data.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1, 2, 4, 12, 13, 18, 21-24, 42, 43, 46, 47, 51 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Japanese Pat. No. 2001-231429 to Tachikawa et al.

Tachikawa et al. discloses a set of electrodes (4a, 4b); means for communicating a surveillance signal (5, 33) between the trap (1) and an external surveillance unit (7, 8).

In regard to claim 2, Tachikawa et al. discloses a trap (1) with a bottom (bottom of 1 upon which 4a, 4b sit) with an upwardly extending sidewall (sidewalls of 1; see Fig. 2), a top section (top of 1), at least one entrance (10 on left in Fig. 1), and an exit (opposing 10 on right in Fig. 1).

In regard to claims 12 and 13, Tachikawa et al. discloses an electronic circuit including at least one microprocessor (30), wherein the circuit is adapted to generate high-voltage potential from a low voltage power source (DC power source), and wherein the animal is detected by an electronic detector (S) connected to the circuit (see Fig. 1).

In regard to claim 18, Tachikawa et al. discloses at least three electrodes (2 of 4a and 2 of 4b).

In regard to claim 21, Tachikawa et al. discloses a first electrode (4a on left in Fig. 1) connected to a second electrode (4b on left in Fig. 1), and a third electrode (4a or 4b on right in Fig. 1) electrically isolated from first and second electrodes.

In regard to claim 24, Tachikawa et al. discloses the potential being generated upon detection of a leak current through the animal between the first and second electrode (S1, S2 can be sensors whose method of "function can be given by the method of detecting voltage of - electrode produced when the rat contacted two electrodes etc.").

In regard to claims 42 and 43, Tachikawa et al. discloses the circuit storing an identification code for the trap (30 outputs identification code for every apparatus A) and means for communicating a surveillance signal comprises means for transmitting a

wireless signal (wireless device 33) to an external unit (5 or 7, 8) provided with a receiver (hooked up to 6).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 3, 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Pat. No. 2001-231429 to Tachikawa et al. in view of Allen 5,406,742 or Sheridan 2,763,092.

Tachikawa et al. discloses an entrance and an exit, but does not disclose a chamber between an entrance and an end section which supports bait or an exit comprising a trapdoor operated automatically upon electrocution of an animal. Allen and Sheridan disclose a chamber (any suitable waiting receptacle OR barrel of water) between an entrance (13 OR in front of 25) and an end section which supports bait (6 OR 45) and an exit comprising a trapdoor (3 OR 24) operated automatically upon electrocution of an animal (solenoid 12 initiates downward movement of base 3 one minute after control box 5 generates a current through ladder 4 OR when rodent steps on foot rest 40, the latch 30 can pivot about pin 29 and this will cause trap door 24 to swing downward). It would have been obvious to one of ordinary skill in the art to modify the trap of Tachikawa et al. such that it has a chamber between an entrance and

an end section which supports bait and an exit comprising a trapdoor operated automatically upon electrocution of an animal in view of Allen or Sheridan in order to provide both bait which will entice the rodent to the desired trap area and means for disposing of electrocuted rodents so that the electrodes can be reset and cleared and thus used multiple times to catch a plurality of rodents.

12. Claims 16, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Pat. No. 2001-231429 to Tachikawa et al. in view of Swift et al. 6,609,328 or Johnson et al. 5,949,636.

Tachikawa et al. discloses the high-voltage potential (similar to ignition system in a car), but does not disclose the high-voltage potential generated in pulses. Swift et al. discloses the high-voltage potential generated in pulses (circuit member 186 is formed by high voltage output transformer whose output pulse is about 2.53KV to instantaneously kill a mouse) from a DC power supply in the form of batteries (184). Johnson et al. discloses a battery (4) and wherein the rectangular pulse train on POUT (35) is converted into a high voltage pulse train via inductors (74, 76) which are electrically connected to conducting plate (94) and ground stake (90) via the ground to kill the rodents. It would have been obvious to a person of ordinary skill in the art to modify the circuitry of Tachikawa et al. such that it converts a DC source to produce a high-voltage potential generated in pulses in view of Swift et al. and Johnson et al. in order to provide a means for effectively and quickly killing a rodent while using a low voltage DC source, wherein the use of a DC source allows for greater portability of the trap by removing the need for connection to an electrical outlet to supply power.

13. Claims 19, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Pat. No. 2001-231429 to Tachikawa et al. in view of Hohler 2,465,686 or Vincent et al. 2,411,766.

Tachikawa et al. does not disclose the surface of the electrodes being rough. Hohler discloses the surface of the electrodes (22a, 23a, 31a in Figs. 6, 7) being rough (corrugations). Vincent et al. discloses the upper surface of the movable ramp section (42) preferably being covered with a rather course wire screening (47) to afford good traction whereby the rat can climb quickly up the ramp and into the execution chamber E. It would have been obvious to a person of ordinary skill in the art to modify the electrodes of Tachikawa et al. such that they are rough in view of Hohler or Vincent et al. in order to provide electrodes which give the rodents sure footing upon the electrodes so that they are reliably electrocuted to death.

In regard to claim 20, Tachikawa et al. and Hohler or Vincent et al. do not disclose roughness of the surface being provided by adhering metal shavings to a metal plate. It would have been an obvious matter of design choice to design the roughness of the surface as being provided by adhering metal shavings to a metal plate since applicant has not disclosed that by doing so produces any unexpected results or is critical to the design and because adhering metal shavings to a metal plate is an economical way of providing a rough surface on an electrode.

14. Claims 44-49, 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Pat. No. 2001-231429 to Tachikawa et al. in view of Farrell et al. 6,445,301.

Tachikawa et al. does not disclose the trap having a receiving unit for receiving a command signal from the external unit, the wireless signal being an electromagnetic signal in the range of 2.2 to 2.8 GHz or a radio signal, or the surveillance signal which is only sent out upon receiving a request signal. Farrell et al. discloses a transceiver (48) which transmits information from the pest monitoring device (11) over the wireless communication channel to a hand-held computer unit (50) using IR communications protocol, RF, cellular or other type of transceiver. Farrell et al. also discloses that the transmission of data from the device (11) to the hand-held computer unit (54) may be implemented as a dump of the contents of the device memory (46) to the unit (54), which is initiated by an operator using the unit (54) commands 44, 46 via 48). Farrell et al. also discloses that the microprocessor (44) preferably monitors the battery condition and provides a warning to an operator when battery replacement is required. It would have been obvious to one of ordinary skill in the art to modify the trap of Tachikawa et al. such that the wireless signal is an electromagnetic signal or radio signal, send out the surveillance signal upon receiving a request signal, and have a receiving unit for receiving a command signal from the external unit in view of Farrell et al. in order to provide a reliable wireless communication protocol that can be purchased off the shelf and also provide a manner of sending out the data collected by the monitoring device only when the user desires to accept and process the information upon command.

15. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Pat. No. 2001-231429 to Tachikawa et al. in view of Gardner, Jr. et al. 2003/0213161.

Tachikawa et al. does not disclose means for determining the geographical position of the trap. Gardner, Jr. et al. discloses a trap (605) with a communication device (14) and a gross motion sensing switch (603) which can be a switch which senses physical movement of the trap or which monitors the physical location of the trap such as a GPS sensor. It would have been obvious to a person of ordinary skill in the art to modify the device of Tachikawa et al. such that it has a means for determining the geographical position of the trap in view of Gardner, Jr. so that the user is aware of the location of the plurality of traps and whether or not they have been tampered with or been moved from their desired locations.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Trompen 2003/0160699 discloses that the communication and processing arrangement 30 could transmit a query signal to the pest control device 12 as a prompt for the pest control device to transmit a signal indicating that the pest control device is operational. Nowak 5,497,576 discloses traction may be provided by positioning one or more small ridges 31 across the entry end 23 of the crawling area 12. Meyers 3,936,972 discloses a rodent trap wherein adequate traction is provided for rodents and the like to ascend the ramps, the upper surface of each ramp includes a series of treads 40. Farrell Barnes 2,775,844 discloses the outer sides of the ramp and the platform are suitably roughened as by the transverse grooves 42 to provide a traction surface for the rodent.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (571) 272-6885. The examiner can normally be reached on M-F, 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Darren W. Ark/
Darren W. Ark
Primary Examiner
Art Unit 3643

DWA